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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/762,330

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Satoru Tanaka

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EXAMINER

LANIER, BENJAMIN E

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/762,330	<b>Applicant(s)</b> TANAKA, SATORU	
	<b>Examiner</b> BENJAMIN E. LANIER	<b>Art Unit</b> 2432	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/17/2009</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment filed 07 July 2009 amends claims 1, 5, 9, 13, 15, and 27.

Applicant has added claim 28. Applicant's amendment has been fully considered and entered.

### ***Response to Arguments***

2. Applicant argues, "Hermann...only discuss[es] verifying the client computer to determine whether client computer is operating a particular anti-virus program and verifying that the program is up to date...this does not expressly discuss the language of amended claim 1, namely 'a security detection unit detecting a security level of a user apparatus, based upon an access record of the user apparatus accessing a virus information computer' because Hermann is silent on checking an access record of a client computer to a virus information computer." This argument is not persuasive because Hermann discloses (see [0071] & [0076] & [0081]) that the user's computer is checked for compliance by detecting whether or not the anti-virus definition files are up to date. To perform this operation, an integrity server checks the publication dates of all the virus definition files on the user computer against the most current virus definition file available for the anti-virus software from that vendor. If the user's virus definition files are not up to date, the integrity server notifies the user with location of the latest vendor specific virus definition files. This effectively meets the claimed limitations because the record of virus definition files on the user computer meets the claimed access record because this information effectively shows when the user computer received the virus definition files from the vendor. For instance, Hermann suggests that vendor could have daily virus definition updates ([0076]).

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Therefore, the integrity server would know which days the user computer contacted the vendor for the updated virus definition files.

3. Applicant argues that Hermann does not disclose detecting whether the user apparatus access the virus information computer at a predetermined interval. This argument is not persuasive because Hermann discusses detecting, at predetermined intervals, whether or not the user computer contacted the vendor for the most recent definition files ([0073] & [0076]).

4. Applicant's argument with respect to claim 15 has been fully addressed in light of the above remarks.

5. Applicant's arguments, with respect to the Sobel reference have been fully considered and are persuasive. The §102(e) rejections of claims 1-27 in view of Sobel, have been withdrawn.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Herrmann, U.S.

Publication No. 2003/0055994. Referring to claims 1, 5, 9, 13, 19, 21, 23, 28, Herrmann

discloses providing anti-virus cooperative enforcement wherein network access is

permitted/denied based upon whether the client computer virus definition files are updated

([0050] & [0071] & [0073] & [0076] & [0081]), which meets the limitation of a security

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management device, an apparatus for a user and a security setting guide device in communication via a network, security detection unit detecting a security level of a user application based upon an access record of the user apparatus accessing a virus information computer, a judging unit judging whether the security level of the user apparatus reaches a predetermined security level, and an access control unit, in case the judging unit judges the security level of the user apparatus does not reach the predetermined security level, restricting an access permission, the user apparatus is established to afford the network, the detecting is based upon whether the user apparatus accesses the virus information computer at a predetermined level.

Referring to claims 2, 6, 10, 20, 22, 24, Herrmann discloses that if the client computer is determined to be complaint, the client is permitted access to the network ([0050]), which meets the limitation of the access control unit, in case the judging unit judges that the security level of the user apparatus reaches the predetermined level, sets a range wider than the restriction range as the access permission range of the user apparatus, in case the judging unit judges that the security level of the user apparatus has reached the predetermined security level, does not restrict the access permission range on the network by the user apparatus.

Referring to claims 3-4, 7-8, 11-12, 14, Herrmann discloses that if the client computer is determined to be non-compliant, a sandbox server can provide access to the required anti-virus updates or information about where such updates may be obtained ([0051]), which meets the limitation of the access control unit has a function of controlling a communication route of the user apparatus and, in case the judging unit judges that the security level of the user apparatus does not reach the predetermined level, controls a communication destination of the user

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apparatus to a specified device in the restriction range on the network, the specified device controls updating the virus definition file of the user apparatus, in case the judging unit judges the security level of the user apparatus does not reach the predetermined security level, connects the user apparatus to the security setting guide device.

Referring to claims 15-16, 18, 25, 27, Herrmann discloses providing anti-virus cooperative enforcement wherein network access is permitted/denied based upon whether the client computer virus definition files are updated ([0050] & [0071] & [0073] & [0076] & [0081]), which meets the limitation of determining a security level of a user terminal upon a network access for the user terminal, based upon an access record of the user terminal access a virus information computer, security information updating history of the user terminal, and ensuring a predetermined security level on the network, according to the determined security level of the user terminal, the security information comprises a virus definition file and the security information updating history of the user terminal comprises an access pattern to a security information server for updating security information and/or an access history to the security information for updating the security information, if the security level of the user terminal does not reach the predetermined security level, restricting an access permission range on the network of the user terminal, the user apparatus is established to afford the network.

Referring to claim 17, Herrmann discloses that if the client computer is determined to be non-compliant, a sandbox server can provide access to the required anti-virus updates or information about where such updates may be obtained ([0051]), which meets the limitation of the ensuring of the predetermined security level on the network comprises guiding the user terminal to meet the predetermined security level.

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Referring to claim 26, Herrmann discloses that if the client computer is determined to be complaint, the client is permitted access to the network ([0050]), which meets the limitation of in case the judging unit judges that the security level of the user apparatus has reached the predetermined security level, does not restrict the access permission range on the network by the user apparatus.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BENJAMIN E. LANIER whose telephone number is (571)272-3805. The examiner can normally be reached on M-Th 7:00am-5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Benjamin E Lanier/  
Primary Examiner, Art Unit 2432